

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-565

**JPMORGAN CHASE & CO. and
CHASE BANK USA, N.A.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFF

V.

CIVIL ACTION NO. 3:12-CV-571

**HSBC BANK NEVADA, N.A.;
HSBC CARD SERVICES, INC.; and
HSBC BANK USA, N.A.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFF

V.

CIVIL ACTION NO. 3:12-CV-572

**CITIGROUP, INC.; CITIBANK, N.A.; and
DEPARTMENT STORES NATIONAL BANK**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-573

**DISCOVER FINANCIAL SERVICES, INC.;
DISCOVER BANK; DFS SERVICES, L.L.C.;
and AMERICAN BANKERS MANAGEMENT
CORPORATION, INC.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-574

**BANK OF AMERICA CORPORATION and
FIA CARD SERVICES, N.A.**

DEFENDANTS

CONSOLIDATED WITH

**JIM HOOD, ATTORNEY GENERAL OF
THE STATE OF MISSISSIPPI, *EX REL.*
THE STATE OF MISSISSIPPI**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:12-CV-575

**CAPITAL ONE BANK (USA) N.A.; and
CAPITAL ONE SERVICES, LLC**

DEFENDANTS

NOTICE OF ACTION BY UNITED STATES SUPREME COURT

The Defendants Bank of America Corporation and FIA Card Services, N.A. (collectively, “Bank of America”) hereby join the other Defendants in notifying this Court that the United States Supreme Court recently granted a petition for writ of certiorari relating to the Fifth Circuit’s decision in *Mississippi ex rel. Hood v. AU Optronics Corp.*, 701 F.3d 796 (5th Cir. 2012). *See Mississippi ex rel. Hood v. AU Optronics Corp.*, No. 12-1036, 2013 WL 655204 (U.S. May 28, 2013). All parties in *AU Optronics* asked the Supreme Court to grant certiorari to resolve a circuit split on the issue of whether an attorney general action that asserts claims on behalf of citizens is removable as a “mass action” under the Class Action Fairness Act of 2005 (“CAFA”). The Supreme Court’s decision in that case may impact this Court’s ruling on the Attorney General’s pending motion to remand.

In *AU Optronics*, the Fifth Circuit held that a lawsuit brought by the Mississippi Attorney General seeking relief for harm allegedly suffered by Mississippi citizens was removable as a

“mass action” pursuant to the provisions of CAFA codified at 28 U.S.C. § 1332(d). Both the Plaintiff and the Defendants in the instant case cited *AU Optronics* as controlling authority on the question of whether this case is removable as a “mass action.” *See, e.g.*, Pl.’s Supp. Mem., Doc. 27, at 2-9; Defs.’ Mem. in Opp., Doc. 31, at 17-21.

The Defendants removed this action to federal court on three grounds: (1) the complete preemption doctrine, and (2) CAFA’s “mass action” provisions. If this Court agrees that jurisdiction over this action exists under the complete preemption, then the Supreme Court’s decision in *AU Optronics* will have little effect here. If, however, this Court concludes that jurisdiction depends on the CAFA “mass action” provisions, then the Supreme Court’s decision in *AU Optronics* will be controlling; accordingly, Bank of America respectfully submits that this Court should await the Supreme Court’s decision before ruling on the remand motion.

Bank of America will keep this Court apprised of the status of *AU Optronics*.

THIS, the 4th day of June, 2013.

Respectfully submitted,

**BANK OF AMERICA CORPORATION and FIA
CARD SERVICES, N.A.**

Defendants

By: s/ H. Hunter Twiford, III
H. Hunter Twiford III
One of its Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned H. Hunter Twiford, III, McGlinchey Stafford PLLC, hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants:

NONE

THIS, the 4th day of June, 2013.

s/ H. Hunter Twiford, III

H. Hunter Twiford, III

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